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CITY OF OAKLAND



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October 18, 2011

HONORABLE CITY COUNCIL
Oakland, California

Subject: Desiree Gutierrez v. City of Oakland
Alameda County Superior Court No. RG09-472656
City Attorney File No. 27318 (Public Works Agency)

President Reid and Members of the City Council:

Pursuant to Section 401 of the City Charter, the City Attorney has prepared and requests your approval of a resolution authorizing the City Attorney to compromise and settle the above-entitled action. Due to the risk of an adverse jury verdict under the circumstances settlement is recommended in the sum of One Hundred Four Thousand Three Hundred Fifty Three Dollars and Forty One Cents (\$104,353.41) payable to Plaintiff Desiree Gutierrez and Scott H. Z. Sumner, her attorney.

This action arises from a trip and fall accident on March 20, 2009. Ms. Gutierrez was injured when she tripped and fell over an uneven portion of the sidewalk as she approached the Lake Merritt BART station entrance. Ms. Gutierrez sustained serious injuries requiring medical treatment as a result of this accident. This matter was heard in closed session on October 4, 2011.

Respectfully submitted,


BARBARA J. PARKER
City Attorney

Attorney Assigned:
CHARLES E. VOSE

OAKLAND CITY COUNCIL

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RESOLUTION No. _____ C.M.S.

CEV

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF DESIREE GUTIERREZ v. BAY AREA RAPID TRANSIT DISTRICT AND THE CITY OF OAKLAND, ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG09-472656, IN THE AMOUNT OF ONE HUNDRED FOUR THOUSAND, THREE HUNDRED FIFTY THREE DOLLARS AND FORTY ONE CENTS (\$104,353.41) AS A RESULT OF A TRIP AND FALL ACCIDENT AT THE ENTRANCE TO THE LAKE MERRITT STATION ON MARCH 20, 2009 (PUBLIC WORKS AGENCY)

WHEREAS: Desiree Gutierrez was injured when she tripped and fell over an uneven portion of the sidewalk as she approached the Lake Merritt BART station entrance; and

WHEREAS: Ms. Gutierrez sustained serious injuries requiring medical treatment as a result of this accident; and

WHEREAS: In order to avoid the risk of an adverse jury verdict under the circumstances;

NOW, THEREFORE, BE IT RESOLVED: That the City Attorney is authorized and directed to compromise and settle the case of Desiree Gutierrez v. B.A.R.T. and City of Oakland, City Attorney's File No. 27318, for the sum of One Hundred Four Thousand, Three Hundred Fifty Three Dollars and Forty One Cents (\$104,353.41); and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps as may be necessary to effect said settlement; and be it

FURTHER RESOLVED: That the sum of One Hundred Four Thousand, Three Hundred Fifty Three Dollars and Forty One Cents (\$104,353.41) be payable to Plaintiff Desiree Gutierrez and Scott H. Z. Sumner, her attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- DE LA FUENTE, KERNIGHAN, NADEL, BRUNNER, SCHAFF, BROOKS, KAPLAN and PRESIDENT REID

NOES-
ABSENT-
ABSENTION-

Attest: _____
LaTonda Simmons
City Clerk and Clerk of the Council
Of the City of Oakland, California